

House Bill 1131

By: Representatives Heard of the 104<sup>th</sup>, England of the 108<sup>th</sup>, Freeman of the 140<sup>th</sup>, Keown of the 173<sup>rd</sup>, and Maddox of the 172<sup>nd</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions relative to counties, municipal corporations, and other governmental entities, Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of specialized land transactions, and Article 3 of Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to covenants and warranties, so as to state the public policy of this state is to permit citizens to participate in government and engage in the expression of political speech, including patriotic expression, and is a consequence of the state's sovereign right to promote the general welfare of the public by protecting political speech; to prohibit certain rules, regulations, policies, or ordinances of the State of Georgia, any county or municipal corporation of this state, or any official, department, agency, board, bureau, commission, or authority thereof or any covenant, condominium instrument or declaration, condominium association document, rule, or regulation, any property owners' association instrument or declaration, or any property owners' association document, rule, or regulation which limits, prohibits, impairs, or restricts certain rights to display flags, including the flags of the United States of America and the State of Georgia, to place or display certain political signs, and to distribute political literature; to provide for retroactive application; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions relative to counties, municipal corporations, and other governmental entities, is amended by adding at the end thereof a new Code Section 36-80-21 to read as follows:

"36-80-21.

(a) It is the public policy of this state to permit citizens to participate in government and engage in the expression of political speech, including patriotic expression. The state has

1 the sovereign right and solemn duty to promote the general welfare of the public by  
2 protecting political speech.

3 (b) Except as required for the public health or safety and notwithstanding any provision  
4 to the contrary, no rule, regulation, policy, or ordinance of the State of Georgia or any  
5 county or municipal corporation of this state or any official, department, agency, board,  
6 bureau, commission, or authority thereof shall limit, prohibit, impair, or restrict nor require  
7 a permit or fee for:

8 (1) The display by the owner, or with the consent of the owner, by his or her lessee of  
9 flags, including the flag of the United States of America or the flag of the State of  
10 Georgia, on such owner's or lessee's property. For purposes of this paragraph, the term  
11 'flag' means a flag which is made of fabric, cloth, or paper, which does not exceed 135  
12 square feet in area, which is displayed from a staff or pole or in a window, and which is  
13 displayed and placed so that it does not pose a hazard to public health or safety;

14 (2) The placement or display of any political sign which does not exceed four feet in  
15 height and eight feet in length on the owner's property, provided that the placement of  
16 the sign does not obstruct views, distract motorists, or displace alternate uses for the land  
17 upon which it is placed; or

18 (3) The distribution of political literature door-to-door, on public streets, or  
19 business-to-business.

20 (c) This Code section applies retroactively to all rules, regulations, policies, and ordinances  
21 in effect on the effective date of this Code section as well as to all rules, regulations,  
22 policies, and ordinances adopted on or after such date."

## 23 SECTION 2.

24 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of  
25 specialized land transactions, is amended by adding to Article 3, relating to condominiums,  
26 a new Code Section 44-3-75.1 to read as follows:

27 "44-3-75.1.

28 (a) It is the public policy of this state to permit citizens to participate in government and  
29 engage in the expression of political speech, including patriotic expression. The state has  
30 the sovereign right and solemn duty to promote the general welfare of the public by  
31 protecting political speech.

32 (b) Except as required for the public health or safety and notwithstanding any provision  
33 to the contrary, no covenant, condominium instrument or declaration, or any condominium

1 association document, rule, or regulation shall limit, prohibit, impair, or restrict nor require  
2 a permit or fee for:

3 (1) The display by the owner or, with the consent of the owner, by his or her lessee of  
4 flags, including the flag of the United States of America or the flag of the State of  
5 Georgia, on or in the owner's separate interest or within the owner's exclusive use  
6 common area. For purposes of this paragraph, the term 'flag' means a flag which is made  
7 of fabric, cloth, or paper, which does not exceed 135 square feet in area, which is  
8 displayed from a staff or pole or in a window, and which is displayed and placed so that  
9 it does not pose a hazard to public health or safety;

10 (2) The placement or display of any political sign which does not exceed four feet in  
11 height and eight feet in length on or in the owner's separate interest or within the owner's  
12 exclusive use common area, provided that the placement of the sign does not obstruct  
13 views, distract motorists, or displace alternate uses for the land upon which it is placed;  
14 or

15 (3) The distribution of political literature door-to-door, on public streets, or  
16 business-to-business.

17 (c) This Code section applies retroactively to all covenants, condominium instruments or  
18 declarations, and any condominium association documents, rules, and regulations in effect  
19 on the effective date of this Code section as well as to all covenants, condominium  
20 instruments or declarations, and condominium association documents, rules, and  
21 regulations adopted on or after such date."

### 22 SECTION 3.

23 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of  
24 specialized land transactions, is amended by adding to Article 6, known as the 'Georgia  
25 Property Owners' Association Act,' a new Code Section 44-3-223.1 to read as follows:

26 "44-3-223.1.

27 (a) It is the public policy of this state to permit citizens to participate in government and  
28 engage in the expression of political speech, including patriotic expression. The state has  
29 the sovereign right and solemn duty to promote the general welfare of the public by  
30 protecting political speech.

31 (b) Except as required for the public health or safety and notwithstanding any provision  
32 to the contrary, no covenant, property owners' association instrument or declaration, or any  
33 property owners' association document, rule, or regulation shall limit, prohibit, impair, or  
34 restrict nor require a permit or fee for:

(1) The display by the lot owner or, with the consent of the owner, by his or her lessee of flags, including the flag of the United States of America or the flag of the State of Georgia, on such lot. For purposes of this paragraph, the term 'flag' means a flag which is made of fabric, cloth, or paper, which does not exceed 135 square feet in area, which is displayed from a staff or pole or in a window, and which is displayed and placed so that it does not pose a hazard to public health or safety;

(2) The placement or display of any political sign which does not exceed four feet in height and eight feet in length on the owner's lot, provided that the placement of the sign does not obstruct views, distract motorists, or displace alternate uses for the land upon which it is placed; or

(3) The distribution of political literature door-to-door, on public streets, or business-to-business.

(c) This Code section applies retroactively to all covenants, property owners' association instruments or declarations, and any property owners' association documents, rules, or regulations in effect on the effective date of this Code section as well as to all covenants, property owners' association instruments or declarations, and property owners' association documents, rules, or regulations adopted on or after such date."

#### SECTION 4.

Article 3 of Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to covenants and warranties, is amended by adding a new Code Section 44-5-60.1 to read as follows:

"44-5-60.1.

(a) It is the public policy of this state to permit citizens to participate in government and engage in the expression of political speech, including patriotic expression. The state has the sovereign right and solemn duty to promote the general welfare of the public by protecting political speech.

(b) Except as required for the public health or safety and notwithstanding any provision to the contrary, no covenant shall limit, prohibit, impair, or restrict nor require a permit or fee for:

(1) The display by the owner of any real property or, with the consent of the owner, by his or her lessee of flags, including the flag of the United States of America or the flag of the State of Georgia, on such property. For purposes of this paragraph, the term 'flag' means a flag which is made of fabric, cloth, or paper, which does not exceed 135 square feet in area, which is displayed from a staff or pole or in a window, and which is displayed and placed so that it does not pose a hazard to public health or safety;

1 (2) The placement or display of any political sign which does not exceed four feet in  
2 height or eight feet in length on the owner's property, provided that the placement of the  
3 sign does not obstruct views, distract motorists, or displace alternate uses for the land  
4 upon which it is placed; or

5 (3) The distribution of political literature door-to-door, on public streets, or  
6 business-to-business.

7 (c) This Code section applies retroactively to all covenants in effect on the effective date  
8 of this Code section as well as to all covenants entered or adopted on or after such date."

9 **SECTION 5.**

10 All laws and parts of laws in conflict with this Act are repealed.